

## **REMARKS**

The present Amendment is in response to the Examiner's Office Action (hereinafter referred to as "the Office Action") made final and dated February 9, 2009. Claims 1, 3, 5, 6, 7, 10-24 were pending at the time of the last Examination. No claims are cancelled or added by this response, so such claims remain pending upon entry of the amendments made herein. Of these claims, Claims 1, 6 and 19 are independent. The Office Action once again rejects all of the independent claims as being anticipated by United States patent publication number US 2003/016341A1 applied for in the name of Henning Bulow (the publication hereinafter referred to simply as "Bulow"). The Office Action also rejects the dependent claims as well either under this same 35 U.S.C. 102(e) rejection, or under 35 U.S.C. 103(a) as being unpatentable over Bulow in view of United States patent number 6,654,152 issued to Jacobowitz (the patent hereinafter referred to as "Jacobowitz").

### **I. Substantive Rejections**

Section 2 of the Office Action rejects all of the independent Claims 1, 6 and 19, and some of the dependent claims (including Claims 3, 5, 7, 13, 14, 18, 20 and 21) under 35 U.S.C. 102(e) as being anticipated by Bulow. Section 4 of the Office Action rejected some of the dependent claims (including Claims 10-12, 15-17 and 22-24) under 35 U.S.C. 102(e) as being anticipated by Bulow in view of Jacobowitz.

The applicants thank the Examiner for the recent voice mail exchange that clarified the Examiner's position regarding interpretation of the independent claims, as constituted prior to the entry of the claim amendments herein. Consistent with the spirit of the principles described in the Manual of Patent Examining Procedure (MPEP) section 713.04, the undersigned now attempts to summarize the voice mail exchange. The undersigned urged the Examiner to not maintain the rejection since the undersigned believed that the Examiner's rejection was based on the treatment of the eye diagram of Figure 4C of Bulow as a pulse diagram. The undersigned indicated that this was improper because the recited temporal profile of the independent claims was for a single pulse. The Examiner responded by indicating that the independent claims were not specific to defining the temporal profile in the form of a single pulse, but could be read as applying to a collection of pulses. Therefore, the Examiner concluded, it is proper to apply the

eye diagram of Figure 4C of Bulow to the independent claims as then constituted. The undersigned thanks the Examiner for this voice mail exchange, and requests clarification if the summary of the exchange provided herein was misunderstood by the undersigned.

Each of the independent Claims 1, 6 and 19 have now been amended to remove the possibility of the Examiner's prior interpretation of the claims. Some dependent claims have been amended for consistency with the independent claims, and for further clarity. The independent claims are now clear that the recited temporal profile is for a single pulse, and not for a collection of time-shifted and superimposed pulses as in the case of an eye diagram. Accordingly, with the amendments of Claims 1, 6 and 19, the profile of the eye diagram of Figure 4C of Bulow should not be used to reject the claims. In fact, if one derives the pulse shape from the eye diagram of Figure 4C, one would find that the temporal profile of that pulse does not have a minimum in the adjacent time slot, and does not have the recited oscillating tail of independent Claims 1 and 6. Furthermore, the pulse is not substantially Sinc-shaped as recited in Claim 19. Accordingly, each of the independent claims is not anticipated by Bulow. Jacobowitz fails to teach these missing features of Bulow or otherwise suggest that the pulse shape of Bulow should be modified to arrive at the recited independent claims. Therefore, independent Claims 1, 6 and 19 are not anticipated by, nor rendered unpatentable by, Bulow, either singly or in combination with Jacobowitz. Thus, the 35 U.S.C. 102(e) rejection, and the 35 U.S.C. 103(a) rejection should be withdrawn. Thus, favorable action is respectfully requested.

## **II. GENERAL CONSIDERATIONS**

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose

contemporaneous or future consideration by the Applicants, in this case or any other, of additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicants note as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Office Action; or as to any other assertions, allegations or characterizations made by the Office Action at any time in this case. Applicants reserve the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

### **III. CONCLUSION**

In view of the foregoing, Applicants believe the claims as presently pending are in allowable form and that every issue raised by the Office Action has been addressed. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorneys.

Dated this 8<sup>th</sup> day of May, 2009.

Respectfully submitted,

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